

BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
in and for the STATE OF UTAH

IN THE MATTER OF THE APPROVAL)
OF THE NOTICE OF INTENT AND) **AMENDED PROTEST**
RECLAMATION PLAN SUBMITTED BY)
5M INCORPORATED SILVER REEF) **No. ACT-053-002**
MINES, WASHINGTON COUNTY, UTAH.)

COMES NOW Bennett Petroleum Corporation of Denver, Colorado and amends its Protest filed in the above-entitled matter to read as follows:

1. Bennett Petroleum Corporation has not been given notice of the Order to Show Cause proceeding as provided in Utah Code Ann. §40-8-13 and as constitutionally required. Such notice is mandatory because Bennett Petroleum Corporation is an owner of mineral claims in the area of proposed 5M, Inc. development. 5M, Inc. has expressed its intention to mine areas covered by valid unpatented mining claims owned by Bennett Petroleum Corporation. Bennett Petroleum Corporation has only been made aware of these proceedings through the published notice made August 3, 1978, in the Washington County News. By reason of deficiencies in the notice given, these proceedings should be suspended until notice is properly made.

2. Data as to mineral ownership, upon which the tentative decision of the Board is based, specifically, that 5M, Inc. is the sole owner of record of minerals to be mined is erroneous. See Notice of Intention to Commence Mining Operations, paragraphs 10, 11 and 12. Bennett Petroleum Corporation is the owner of unpatented mining claims in the area of 5M, Inc. development which physically conflict with mining claims owned by 5M, Inc. or which would be invaded by the assertion of extra lateral rights by 5M, Inc. These claims are shown on the map Exhibit A. Location notices and maps of these claims are recorded at Book 214, Pages 438-450;

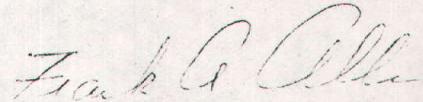
Book 212, Pages 315-323 and 392-400; Book 183, Pages 334-359 in the records of the Washington County Recorder's Office. In addition, Bennett Petroleum Corporation has an interest in other unpatented mining claims which conflict with 5M, Inc. claims or would be invaded by the assertion of extra lateral rights as proposed by 5M, Inc. These claims are shown on the map, Exhibit B. Location notices and a map of these claims are recorded at Book 77, pages 355-365, 422-475, in the records of the Washington County Recorder's Office. Bennett Petroleum Corporation specifically objects to approval of any mineral development to the west of the emphasized line shown on Exhibits A and B. The Board should approve only such development by 5M, Inc. as will occur east of that line.

3. The proposed plan will interfere with use of public roads in the area. 5M, Inc. has stated "consideration is given to fencing entire area." Mining and Reclamation Plan, Page 3. Further, 5M, Inc. states that onsite roads "are on private lands and become private to 5M, Inc." Mining Plan, Page 2. 5M, Inc. has already excluded Bennett Petroleum Corporation and its agents from use of the roads in the area. From investigation, including interviews of county road supervisors and residents in the area, it is apparent that several roads in the area have been maintained by the County. See these roads as shown on Exhibit C. From aerial photographs, maps, and other interviews, it is apparent that several roads shown on Drawings 4 and 15 submitted by 5M, Inc., have been open to continuous public use since first laid out. Cognizance by this Board of the 5M, Inc. claims to exclusive road use and approval of a plan providing for public exclusion will prejudice the rights of Bennett Petroleum Corporation and all local road users. Provision should be made in the mining plan for continued public access.

4. Dumping of overburden as shown on Drawing No. 9

submitted by 5M, Inc. will interfere with Bennett Petroleum Corporation claims on the west side of the White Reef. This dumping will occur west of the emphasized line on Exhibits A and B. Dumping should be restricted to areas where it will not interfere with Bennett Petroleum Corporation development.

DATED this 29th day of September, 1978.



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